

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1167
DOCKET NO. E-7, SUB 1166

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Energy Progress, LLC,)	
and Duke Energy Carolinas, LLC,)	ORDER ADDRESSING
Requesting Approval of Solar Rebate)	COMPLIANCE FILING
Program Pursuant to G.S. 62-155(f))	

BY THE COMMISSION: On January 22, 2018, pursuant to G.S. 62-155(f), Duke Energy Progress, LLC (DEP), and Duke Energy Carolinas, LLC (DEC) (collectively, Duke or the Companies), filed with the Commission an application for approval of the Companies' solar rebate program, made available through DEP's Solar Rebate Program Rider SRP and DEC's Solar Rebate Rider SRR (collectively, Solar Rebate Program).

On April 3, 2018, after receiving and considering the comments filed in this proceeding, the Commission issued an Order Modifying and Approving Riders Implementing Solar Rebate Program (April 3, 2018 Order). The April 3, 2018 Order, among other things, approved the Solar Rebate Program, subject to modifications that the Commission ordered Duke to make through a compliance filing.

On April 13, 2018, Duke submitted its compliance filing, notifying the Commission that the Solar Rebate Program is not expected to be implemented "until the summer of 2018" and raising two issues for the Commission to consider. First, Duke states that the delayed launch date, when read together with the Commission's April 3, 2018 Order, would be problematic for those customers who installed an otherwise eligible solar energy facility before the Solar Rebate Program launches to satisfy the 90-day application deadline. Specifically, because Duke was not prepared to launch the Solar Rebate Program on the date of the Commission's April 3, 2018 Order, those customers would effectively have significantly less than 90 days to apply for the Solar Rebate Program. To remedy this issue, Duke proposes to instead use the date that the Solar Rebate Program launches, a date which as of yet is uncertain, as the effective installation date for otherwise eligible systems installed before the launch date.

Duke, in its compliance filing, next requests that the Commission "further consider the issue of how to administer the proposed termination charge," specifically with regard to the Commission's directive to provide a clearer definition for the "good cause" exception to the early termination charge. Duke requests approval of its proposed definition of "good cause" in this context, as follows: "Good cause includes, but is not limited to, Acts of God." Duke contends that if any issues arise regarding the meaning of

this phrase, participants have recourse through the Commission's jurisdiction over consumer complaints.

On April 17, 2018, the North Carolina Sustainable Energy Association (NCSEA) and the Southern Alliance for Clean Energy (SACE), intervening parties to this proceeding, filed a joint response objecting to Duke's compliance filing and raising a third issue for the Commission to consider. NCSEA and SACE state that Duke failed to alert the Commission, intervenors, and stakeholders that there would be a delay in the implementation of the Solar Rebate Program "despite multiple opportunities to do so." NCSEA and SACE, noting that Duke provided no explanation in its compliance filing for the delay, argue that (1) the delay violates G.S. 62-155(f), (2) Duke's anticipated launch date of "summer of 2018" is uncertain and unacceptable, and (3) the delay "renders any analysis of the effectiveness of the solar rebate program ineffective." Further, NCSEA and SACE contend that Duke should have addressed the delay in its reply comments responding to SACE's concern about the effective installation date for those customers who installed a solar energy facility in early 2018, but instead, Duke stated that "[t]he Companies agree with SACE's recommendation that the date of the Commission's Order Approving Solar Rebate Rider should become the installation date for otherwise eligible solar facilities installed prior to the Commission's Order." NCSEA and SACE do not object, however, to Duke's proposed remedy of instead using the launch date of the Solar Rebate Program as the installation date. Finally, NCSEA and SACE state that, in fairness to these early adopters, the "first-come, first-served basis" of program participation should be based on the installation date, not the date upon which Duke receives the application.

On April 23, 2018, Duke filed a response to NCSEA and SACE's objection, providing July 9, 2018, as the date upon which Duke "anticipates that the program will be implemented." In addition, Duke denies that it has acted in violation of G.S. 62-155(f) because it timely filed its proposed Solar Rebate Program with the Commission and was unable to implement the program until after such time as the Commission issued its April 3, 2018 Order. Duke contends, moreover, that it is "working to implement the program as quickly as possible in accordance with the Commission's Order." Duke lists a number of steps it must take "to ensure a good customer experience and compliance with the Commission's Order" as further explanation for the delay. Finally, Duke disagrees with NCSEA and SACE that the "first-come, first-served basis" of program participation should be based on the installation date rather than the date an application is received by Duke, on the grounds that this would be inconsistent with the Commission's April 3, 2018 Order. Furthermore, Duke argues that those customers who installed solar energy facilities prior to the launch date of the Solar Rebate Program were not guaranteed a rebate in House Bill 589, but that they nevertheless remain eligible to apply for a rebate and are not disadvantaged by the application process.

No other party filed comments or otherwise responded to Duke's compliance filing or NCSEA and SACE's joint objection thereto.

The Commission has carefully reviewed Duke's compliance filing, NCSEA and SACE's objection thereto, and Duke's reply to that objection. Based upon this review and

the entire record herein, the Commission finds good cause to modify its April 3, 2018 Order to use the launch date of the Solar Rebate Program, as proposed by Duke, for determining the effective installation date for otherwise eligible solar facilities installed before the program launches. In reaching this conclusion, the Commission notes that all parties have expressed support for this modification. Furthermore, the Commission finds compelling the concern that the 90-day application deadline should be applied in a fair manner for all prospective participants to the Solar Rebate Program. The Commission also notes that it relied upon Duke's own reply comments when it previously issued its directive to use the date of the Commission's April 3, 2018 Order as the effective installation date. Accordingly, in light of Duke's after-the-fact disclosure about the proposed program start date and reversal of its previous position on this issue, the Commission finds good cause to modify its April 3, 2018 Order to start the 90-day clock for prospective participants to file an application for the Solar Rebate Program when the program itself actually begins.

Second, the Commission finds good cause to direct Duke to amend its contract period terms in its Solar Rebate Program leaflets by deleting the following sentence: "Good cause includes, but is not limited to, Acts of God." In order to minimize the potential need for multiple additional compliance filings so that the Solar Rebate Program may be implemented as expeditiously as practicable, the Commission directs Duke to replace the deleted sentence with the following: "Good cause includes any act or circumstance, resulting in early termination, which is beyond the control of the Customer." In reaching this conclusion, the Commission notes that the concern of ambiguity, which it intended for Duke to resolve following its April 3, 2018 Order, remains despite Duke's proposed amendment. Instead of preemptively attempting to ascertain all possible situations that may or may not constitute "good cause," the Commission finds that the sentence so directed provides sufficient clarity for prospective applicants, in addition to sufficient protection for program participants who may have their contract terminated for circumstances arising through no fault of their own.

Third, the Commission finds good cause to require Duke to make the Solar Rebate Program more prominently displayed on its website, meaning that there should exist a link on Duke's home page either directly to the Solar Rebate Program, or at least a reference to the Solar Rebate Program with a link directly to a renewable energy page, at which the Solar Rebate Program is displayed without the visitor having to scroll down. While this is more specific than the Commission typically would order with regards to the details of Duke's website, visibility is important to the success of the Solar Rebate Program. In addition, the Commission directs Duke to clearly display the program's expected launch date at the top of its Solar Rebate Program website page, and directs Duke to post any changes to this date as well as any other program updates on its website. The Commission commends Duke's website capability allowing individuals to subscribe to receive Solar Rebate Program updates. However, because it is not clear exactly what constitutes an "update" about which a subscriber will be notified, the Commission directs Duke specifically to send an e-mail update to subscribers both one week in advance and on the day of program implementation.

Fourth, in the event that Duke is unable to implement its Solar Rebate Program on or before July 9, 2018, the Commission finds good cause to require Duke to file for the Commission's review and approval any request to further delay the program's launch. The Commission notes that Duke already is engaged in seemingly significant marketing, advertising, website, and communications efforts with respect to the Solar Rebate Program. In addition, the Commission notes that Duke already has created its leaflets and application forms necessary to administer the program. While the Commission understands Duke's reasons for the delay; namely that remaining steps are necessary "to ensure a good customer experience," the Commission notes that Duke appears already to have made significant progress toward the launch of the Solar Rebate Program. Accordingly, the Commission expects Duke to work toward launching the Solar Rebate Program as soon as reasonably practicable, but no later than July 9, 2018. Should any circumstance arise which may preclude Duke from launching the Solar Rebate Program on or before July 9, 2018, the Commission directs Duke to file a request for approval of the same. However, Duke is hereby on notice that the Commission expects the Companies to provide a strong, compelling reason for making such a request.

Finally, the Commission directs Duke to make a second compliance filing to include these clarifications in conformance with this Order. In its second compliance filing, Duke should modify its Solar Rebate Program leaflets and applications in conformance with this Order. In addition, the Commission notes that Duke's initial compliance filing did not contain "redlined revisions to its leaflets and corresponding application forms," as was previously ordered by the Commission. This oversight made it difficult for the Commission and the parties to easily determine revisions made to the original materials submitted by Duke. Therefore, the Commission orders Duke to include in its second compliance filing a comparison of the new leaflets and application forms to both its original application and its first compliance filing.

Because of the increased certainty and clarity surrounding program administration and implementation of the Solar Rebate Program, as afforded by this Order, the Commission finds it unnecessary to consider any further modifications to its April 3, 2018 Order. Specifically, the Commission agrees with Duke that the "first-come, first-served" basis for program participation was clearly contemplated and directed by the Commission to be based on the date upon which Duke receives a Solar Rebate Program application. In addition, the modifications and additional directives required by the Commission in this Order provide sufficient procedural clarity surrounding the administration of the Solar Rebate Program such that all prospective participants will be similarly situated and afforded the same opportunity to apply. For these reasons, the Commission declines to adopt NCSEA and SACE's recommendation that the Commission should require the Companies to use the date of installation, instead of the date upon which Duke receives an application, as the basis for determining the priority of applications received.

Based upon the foregoing and the entire record in this proceeding, the Commission finds that its April 3, 2018 Order should be modified only to the extent as described in this Order. The Commission finds it appropriate to withhold approval of Duke's compliance filing until such time as a second compliance filing is made in conformance with this Order.

Finally, the Commission finds that Duke should launch the Solar Rebate Program on or before July 9, 2018, at the latest, and directs Duke to publish and prominently display this information, and any changes thereto, on its website.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission's April 3, 2018 Order Modifying and Approving Riders Implementing Solar Rebate Program is modified to deem the effective installation date to be the launch date of the Solar Rebate Program for all systems installed before the Solar Rebate Program launches;

2. That Duke, within ten days from the date of this Order, shall make a second compliance filing to include the following: (i) a comparison to both the original and first compliance filing versions of its Solar Rebate Program leaflets and corresponding applications forms; (ii) the revised definition of "good cause," as amended by this Order; and (iii) information describing how Duke has more prominently displayed on its website a link to the Solar Rebate Program web page, including a list of any step(s) a visitor to Duke's website must follow to access the web page; and

3. That Duke shall launch the Solar Rebate Program as soon as reasonably practicable, but no later than July 9, 2018, and provide notice on its website and via e-mail to customers who have signed up to receive updates both on the day of and one week prior to the launch date of the Solar Rebate Program.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of May, 2018.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Janice H. Fulmore", is written over a faint, circular official stamp.

Janice H. Fulmore, Deputy Clerk

Commissioners Jerry C. Dockham and Charlotte A. Mitchell did not participate in this decision.